

Order No: 654
Date: December 8, 1988

BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of)	
Application No. 88-1)	
	)	COUNCIL DECISION AND
	)	ORDER DENYING
WASHINGTON WATER POWER	)	EXCEPTIONS; AFFIRMING
CRESTON GENERATING STATION	)	PROPOSED ORDER
	)	GRANTING, IN PART,
	)	REQUEST TO AMEND
A Washington Corporation	)	SITE CERTIFICATION
.....)	)	AGREEMENT

INTRODUCTION

On February 15, 1983, the state of Washington and the Washington Water Power Company (TWWPCo or WWP) signed a Site Certification Agreement (SCA) authorizing up to four 500 MW coal-fired electric generating plants to be located near Creston, Lincoln County, Washington. The SCA contained two conditions relevant to this proceeding. Attachment II, Part A, provides that WWP "shall commence construction of the first unit within five years of the signing of this Agreement and shall commence construction of the fourth unit within 15 years of the signing of this Agreement." Attachment V, Part IV.B, provides that the Air Contaminant Permit "shall be valid only if construction on the first unit commences within five years of the date of certification." The five years expired February 15, 1988.

On January 25, 1988, WWP filed an application with the Washington State Energy Facility Site Evaluation Council (EFSEC or Council) to amend the SCA to extend the noted time limits for five additional years. On May 23, 1988, following a prehearing conference in Davenport, Washington, the Council entered a Prehearing Conference Order which identified five issues to be addressed at the hearings. Hearings were held upon those issues on June 22 and 23, 1988, in Lacey, Washington.

APPEARANCES

The applicant, WWP, was represented by Jerry Boyd, attorney, Spokane; Assistant Attorney General Nancy Sloane, Spokane, appeared as Counsel for the Environment (CFE); Lincoln County was represented by Phil Borst, Prosecuting Attorney, Wilbur; Intervenor Northwest Conservation Act Coalition (NCAC) was represented by Marc Sullivan, its Executive Director, Seattle.¹

MEMORANDUM

The Council entered a proposed order on September 12, 1988. The order proposes:

1. That the five year extension of the construction authorization in the SCA be granted;
2. That the Air Contaminant Permit be suspended until the time of the decision to construct, with permit reinstatement and emission authorizations subject to review of the latest advances in knowledge regarding emissions and technology, including such subjects as acid rain and global warming;
3. That certain provisions as to transmission line siting in the SCA be amended so it is more clear that the Council has authority to approve or reject an alternative route proposed by WWP in the event WWP does not reach an agreement with Bonneville Power Administration (BPA); and
4. That EFSEC and WWP monitor developing changes in standards and advances in knowledge of environmental effects of key pollutants;
5. That the Mitigated Declaration of Nonsignificance (DNS)² is sufficient to resolve matters arising under the Washington State Environmental Policy Act (SEPA).

¹ Intervenor status was also granted to Blue Sky Advocates and the Lincoln County Agricultural Coalition, although neither party appeared at the hearings.

² As part of a review under the Washington State Environmental Policy Act, the Council entered a Mitigated Determination of Nonsignificance, declaring that a decision upon the applicant's request would have no significant adverse effect upon the environment, conditioned upon a more complete review under SEPA at the time of a decision to construct.

The Council in this order presents, considers, and resolves each of the arguments presented. WWP, CFE, NCAC, and the Lincoln County Agricultural Coalition (LCAC) filed exceptions to the proposed order.³ WWP replied to NCAC's and CFE's exceptions. CFE replied to WWP's exceptions.

A. EXTENSION OF CONSTRUCTION AUTHORIZATION

The proposed order would rule that the construction authorization in the SCA should be extended for an additional five years.

1. Counsel for the Environment's Exceptions

CFE excepts to the five-year extension, contending that the CGS is a serious future threat to the environment in Lincoln County, the state and the region. She further contends that renewal, if allowed at all, should only be done after transmission line siting is determined.

WWP's Reply: WWP maintains that CFE's argument is without support in the record and that her exception is not in compliance with WAC 463-30-340 because it does not make specific reference to Findings of Fact or Conclusions of Law to which exceptions are taken. It also argues that CFE does not make reference to any part of the record to support her contention that the burning of fossil fuels has been shown to contribute to global warming and acid rain. It argues that the proposed order makes the same mistake as the CFE, i.e., it fails to acknowledge that there is a pressing need for increased energy facilities.

Discussion and Decision: The Council believes that these exceptions should be denied. While it is true that CFE does not cite to specific proposed Findings of Fact or Conclusions of Law, her exceptions are clear and understandable and the Council will not reject them on procedural grounds.

CFE maintains that the extension will pose future threats to the environment, including acid rain and the greenhouse effect,⁴ yet fails to note that other provisions in the proposed order take into consideration and provide means to deal with those threats. CFE presents no factual errors in the

³ NCAC's exceptions were received by the Council two days after the deadline for filing of exceptions. All other exceptions were timely filed.

⁴ "Greenhouse effect" refers to a global warming caused by the blocking of reflected radiation by growing proportions of such atmospheric constituents as carbon dioxide.

proposed order and in effect merely disagrees with the weight given the evidence by the Council. The Council is satisfied that its evaluation is proper, and the exceptions are rejected.

2. Northwest Conservation Act Coalition's Exceptions

NCAC contends that the order does not accurately summarize its position. It restates its position at length, arguing that the present application constitutes "site banking" and that it is inconsistent with the legislature's finding of need for power. NCAC proposes that the extension be granted for 18 months only, in order to allow time for: 1) Council consideration and adoption of guidelines and procedures for applications to "bank" a site; 2) completion of a least-cost study ordered by the Washington State Utilities & Transportation Commission (WUTC) to determine whether the Creston Generating Station (CGS) will be a viable option; 3) consideration by the Northwest Power Planning Council (NWPPC) of WWP's proposal that the region should shoulder part or all of the cost of maintaining the Creston option; and, 4) development of further information on the implications of the greenhouse effect.

WWP's Reply: WWP contends that NCAC is simply trying to broaden the issues by addressing need; that no reference is made to any portion of the record as is required by WAC 463-30-340; that the least cost planning issues before the WUTC are irrelevant to this proceeding; and that there is no showing that the extension of the SCA as proposed by WWP is unusual or inconsistent with the Siting Act, the intent of the original SCA or prior Site Certification Agreements.⁵

It also argues that there is no support in the record for an 18-month extension and that NCAC's proposal that a "value" be placed on the Creston option by the NWPPC or BPA would mean that EFSEC would be second-guessing the business judgment of WWP and the power planning prerogatives of NWPPC and BPA. WWP maintains that there is no substantive evidence that the CGS would have any environmental impacts other than those addressed in the Environmental Impact Statement (EIS).

Discussion and Decision: NCAC's exceptions were received by the Council two days after the deadline for filing and therefore should be rejected on procedural grounds pursuant to WAC 463-30-330 and WAC 463-30-170. The Council believes, however, that the issues presented by

⁵ WWP requests that the Council take official notice of certain SCAs between the State of Washington and the Washington Public Power Supply System and between the State of Washington and Puget Sound Power and Light Company. The Council acknowledges that these SCA's do not contain any specific time limits for construction of the sort present in the CGS SCA. It is unnecessary to take official notice of each entire lengthy document.

NCAC's exceptions should be addressed and the Council will do so on its own motion. It cautions all participants that doing so is discretionary with the Council and that parties should in the future timely file all documents to assure their consideration.

NCAC's argument that the order does not accurately state its position is without merit. NCAC does not cite any inaccuracies in the summary, and merely proposes that it be deleted and replaced with a lengthier, more detailed summary. Here, the proposed order does not detail every element of NCAC's argument, but does accurately reflect the record.

NCAC's arguments as to site banking were fully explored in the proposed order and were rejected. NCAC has demonstrated no error in the Council's order to justify reversing the proposed finding that the issue of site banking is not reached in this proceeding. NCAC fails to demonstrate how least-cost planning issues are relevant to this application or how the extension would be inconsistent with the Siting Act or the intent of the original SCA. As was stated in the proposed order, the instant case is merely an application to amend an already-existing agreement; it is not an initial application. Hence, regardless of how site banking is defined, the Council is not engaging in that practice by granting this application.

B. TRANSMISSION LINE SITING

The proposed order would determine that the transmission line siting decision should be deferred until the time of the decision to construct. It would amend the SCA to that effect.⁶ It would also amend the SCA to remove apparently mandatory language which could be read to require the Council to approve whatever alternative transmission corridor WWP submits in the event of failure

⁶ The change would occur in Article IV, Part F, Sec. 8, page 13, and would read as follows:

If an acceptable arrangement as provided in Section 7 above cannot be reached between TWWPCo and BPA within six months from the date ~~(the Site Certification is signed)~~ of the decision to construct, TWWPCo may appear before EFSEC and show that TWWPCo negotiated in good faith but was unable to obtain an agreement with BPA as provided in Section 7.

of negotiations between WWP and BPA for routing the line or serving the CGS. The amendment would add language allowing WWP to submit for approval any appropriate alternative transmission route.⁷

1. Washington Water Power's Exceptions

WWP excepts to the changes in Section 9. It contends that there is no basis in the record for the changes and that they are inconsistent with WAC 463-36-040. That regulation provides that the Council shall consider whether the proposal is consistent with: 1) the intention of the original SCA; 2) applicable laws and rules; and, 3) public health, safety and welfare.

WWP contends that the amended provision reduces the bargaining position of WWP in its negotiations with BPA because BPA will "know full well that there is no assurance that WWP will be able to obtain an alternative transmission route approval from this Council."

WWP also objects to the Council's failure to establish standards for alternative transmission routes and contends that the Council ignored the agreement between LCAC and WWP. Finally, WWP excepts to the amendment on the grounds that it addresses substantive matters and is therefore inconsistent with the Prehearing Conference Order.

On November 14, 1988, WWP filed with the Council a "supplement" to WWP's exceptions in which WWP proposes a change in certain language on page 10 of the proposed order.⁸

⁷ This change would occur in Article IV, Part F, Sec. 9, page 13, and would read as follows:

Upon making such a showing to EFSEC and upon EFSEC's concurrence that an agreement as provided in Section 7 could not be obtained, ~~(one of the remaining proposed alternative transmission routes shall be approved)~~ TWWPCo shall submit for approval a proposal for the use of one of the alternative transmission routes utilizing substantial new rights-of-way identified in the Application for Site Certification or other routes.

⁸ As there is no rule or statutory provision made for "supplements" to exceptions, these exceptions are deemed late-filed and are therefore rejected by the Council.

Counsel for the Environment's Reply: CFE, in her reply to WWP's exceptions, argues that the amendment to the transmission line provision is not inconsistent with the prehearing conference order, since the issue pursuant to that order relates to provisions to be included in the amended SCA, which is exactly what the proposed order addressed. Furthermore, no testimony was taken or evidence received as to where the transmission lines would be; such testimony would in that case be substantive. As to the agreement between WWP and LCAC, Counsel for the Environment replies that the agreement is not binding on anyone, and that either party could change its mind at a later date.

Discussion and Decision: WWP's exceptions should be denied. The amendment to Section 9 regarding submission by WWP of any appropriate alternative transmission route is not inconsistent with WAC 463-36-040. The amendment regarding review of a WWP proposal will only clarify certain restrictive language as to the Council's ability to approve or reject an alternative transmission corridor. This is consistent with the intent of the original SCA, i.e., that WWP and BPA be encouraged to negotiate in good faith and that the Council consider any other transmission route. The Council is not contravening any laws or rules in amending the provision, and the amendment is done specifically with the public welfare in mind, since the siting of transmission corridors involves serious environmental considerations.

Furthermore, deletion of the clause "one of the remaining proposed alternative transmission routes shall be approved," does not change the meaning of the provision, but rather clarifies it. A transmission corridor is necessary to the operation of the CGS. In the event negotiations between WWP and BPA fail, the Council has the duty to scrutinize any transmission proposals before determining whether to approve one. The deleted language, on the other hand, implies automatic approval, which would be inconsistent with the Council's statutory responsibilities and which was never the intent of the original SCA. The amended language frees WWP to present alternatives other than those originally suggested.

As to WWP's bargaining position, parties taking part in negotiations generally must balance their potential risks against their potential gains. Negotiation works best when neither party has the upper hand. WWP would prefer to deal with BPA believing that EFSEC is mandated to approve whatever alternative WWP submits to it in the event BPA and WWP cannot agree. The change in the Section 9 provision simply makes it clear that there will be no automatic approval by EFSEC of any transmission corridor.

WWP objects to the Council's failure to establish standards by which to measure any proposal concerning an alternative transmission route. This objection is inconsistent with its argument that the Council is acting in contravention of the Prehearing Conference Order by amending Section 9 at all. The amendment as it stands in the Proposed Order does not reach any substantive matters as to actual transmission routes; there is no evidence on which to base substantive decisions; necessary parties may not all be present in this proceeding to do so; and such decisions would be inconsistent with the Prehearing Conference Order. The review will by law be undertaken pursuant to state substantive standards.

The agreement between LCAC and WWP is mentioned in the Proposed Order. However, the agreement adds nothing to Issue #2 with regard to the good faith bargaining of WWP. The agreement simply allows for an impartial observer to be present at the negotiations, if BPA concurs. The agreement, therefore, is not ignored; it is acknowledged.

The Council believes that there is some ambiguity and potential for confusion in the phrase "as may be appropriate," which it proposed adding to the end of Section 9, inasmuch as the company may submit any route of its choice. Therefore, that phrase will be deleted from the amended language, and Section 9 shall read, in part, "...TWWPCo shall submit for approval a proposal for the use of one of the alternative transmission routes utilizing substantial new rights-of-way identified in the Application for Site Certification or any other route."

2. Counsel for the Environment's Exceptions

CFE contends that no alternative corridor whatsoever should be allowed, since transmission corridors are environmentally intrusive and harmful and since encouraging WWP to bargain in good faith will not give WWP any incentive to make anything but a good business deal. CFE cites a 1987 Harvard Law Review article and a study in a 1987 issue of the Environmental Reporter to support her argument that transmission corridors are harmful to the environment. She urges that the Council proceed with the utmost "prudence and caution" with regard to transmission line corridors.

CFE urges changes to Article IV which, in sum, would require: 1) that a mediator be appointed for the negotiations between WWP and BPA; 2) that WWP show that it negotiated in good faith and was "clearly and convincingly" unable to reach an agreement with BPA; and 3) that, if such a showing is made, WWP submit a route that borders alongside an existing route unless such is not

feasible. Following a study by independent experts, who would review the proposal, and after public hearings are held, EFSEC would then decide on the proposed route. CFE argues that her proposal would be consistent with the policies enunciated in RCW 80.50.010, i.e., that the Council must "preserve and protect the quality of the environment . . . and enhance the public's opportunity to enjoy the aesthetic and recreational benefits of the air, water and land resources."

WWP's Reply: WWP argues that CFE is using evidence outside of the record and that there is no authority to support appointing an independent mediator. It maintains that CFE's proposed language requires WWP to prove a negative "clearly and convincingly." Furthermore, it argues that CFE's proposal is unsupported anywhere in the record and that her citation to RCW 80.50.010 quotes only part of that statute and ignores the statute's mandated balancing of need for facilities against environmental concerns.

Discussion and Decision: CFE's proposal to allow no alternative transmission corridor is without merit, since it could leave WWP without any alternative whatsoever if it did negotiate in good faith with BPA and could not reach agreement.

The Council believes CFE's suggestion that a mediator be appointed for the negotiations is a good one. However, EFSEC has no authority to mandate this, since it has no authority over BPA. On the other hand, WWP's acceptance of mediation could do much towards achieving a satisfactory result and, if agreement is not reached, could enhance WWP's credibility in demonstrating to the Council that it has negotiated in good faith. The Council encourages WWP to consider seriously the use of a mediator skilled in environmental mediation.

CFE's references to the Harvard Law Review and the Environmental Reporter appear to be offered as additional evidence. Facts not received in evidence may not be considered in the determination of a contested case: RCW 34.04.100(2). The studies cited by CFE should be rejected as evidence offered outside of the record.

The "clear and convincing" language suggested by CFE places a burden on WWP that would be very difficult to meet. The language in the proposed order would require that the Council be satisfied that WWP put forth an honest and sincere effort to reach an agreement with BPA. The Council thus would have to be convinced of that effort in any event. The language as it now stands is sufficient and should not be altered.

3. Lincoln County Agricultural Coalition's Exceptions

LCAC agrees that the transmission line siting should be deferred. However, it proposes that the standards to be used to determine whether WWP negotiated in good faith should include "agricultural, visual and environmental factors," which should be given high priority. LCAC also stresses the need for a mediator in the negotiations.

WWP's Reply: WWP contends that LCAC is proposing additional provisions to the SCA, and that there is no evidence to support such a proposal. Furthermore, it urges that LCAC's suggestions regarding additional factors are already required if WWP proposes to use one of the alternative routes that have been previously approved. LCAC's proposal deviates substantially from the existing SCA and is beyond the scope of the prehearing conference order.

Discussion and Decision: The Council will look at all relevant factors in determining whether WWP and BPA negotiated in good faith. These factors need not be enumerated in this order nor would it be appropriate to do so. The ultimate siting of a transmission line will be determined on the basis of state substantive standards. The public will also have a chance to testify in public hearings on the transmission line siting. Therefore, the standards urged by LCAC will probably be used throughout the siting process, including the determination of whether WWP and BPA negotiated in good faith, but should not be set apart by EFSEC as having priority over any others.

C. AIR CONTAMINANT PERMIT

The proposed order would suspend the Air Contaminant Permit, requiring for its eventual reinstatement, the consideration of the advances in knowledge to the time of review and noting a rapidly increasing concern about the cumulative global effect of emissions as they contribute to acid rain and global warming. The order proposes reinstatement of the permit upon WWP's application for reinstatement, only at the time of the decision to construct, upon a full inquiry into relevant factors, and upon review pursuant to then-current standards.

Washington Water Power's Exceptions

WWP contends that the Council in its Prehearing Conference Order made a decision without a contested case hearing that the Air Contaminant Permit should not be extended. It contends that the suspension is inconsistent with WAC 463-36 and RCW 80.50, that it is an overreaction to

speculation concerning global warming and acid rain and that it would discard years of work and effort by scientists and engineers employed by EFSEC and WWP. The Company urges that the order is clearly erroneous and arbitrary and capricious under RCW 34.04.130 and is based only on the unsupported argument of Dr. Orians. Furthermore, it contends that the Council misunderstood Dr. Carleson's testimony in that Dr. Carleson gave no indication that the CGS would increase the risk of acid rain or adversely affect the environment. WWP also contends that a Best Available Control Technology (BACT) analysis would be adjusted for changes in emissions technology, knowledge and standards.

WWP requests that EFSEC take official notice of various documents and facts listed in its exceptions, including portions of the prior record in the original SCA application, the Global Climate Protection Act of 1987, and a U.S. DOE graph. WWP faults the Council for not establishing guidelines or standards for the reinstatement of the suspended permit. It argues that suspension does not enhance or improve public health, safety or welfare pursuant to RCW 80.50.010. Likewise, RCW 34.04 requires a decision to be supported by the record and WWP contends that this one was not.

WWP proposes, as an alternative, a change in the language of the Mitigated DNS to allow review of new information as to the greenhouse effect and acid rain.

Counsel for the Environment's Reply: CFE argues that EFSEC has the authority to set its own permit conditions. For WWP to state that the Council's concern about acid rain and the greenhouse effect is overreactive is to deny years of work and effort by scientists in Washington and all over the world. The record fully supports the acid rain and greenhouse effect concerns expressed in the proposed order.

Discussion and Decision: WWP offers no support whatsoever for its contention that the Council had already decided not to extend the Permit in its Prehearing Conference Order. Furthermore, WWP had an opportunity to raise this issue by exception and by filing a petition for reconsideration of the Prehearing Conference Order and it did not do so. The Council could not consider renewal at present without a review of substantive evidence,⁹ a review which is inappropriate and which would be wasteful if done at the present time.

⁹ There was evidence in this proceeding that the present standards within the permit may no longer be accurate or appropriate, but there was no substantive evidence as to what would be at present the appropriate standards.

The majority of WWP's argument goes to the weight given the evidence by the Council. For example, WWP contends that Dr. Orians' testimony was not credible, that the Council is overreacting to concerns about global warming and acid rain, and that Dr. Carleson's testimony, as "misunderstood" by the Council, should not have been a basis for suspending the Permit. These exceptions should be denied, since they present no errors or inaccuracies in the proposed order. Further, they appear to assume that the Council has determined on the basis of the cited evidence that no permit should ever be granted. The order merely allows a consideration of all relevant evidence, including the latest scientific knowledge of emissions' effect upon acid rain and global warming, when WWP applies for reinstatement of the permit. The years of study and effort expended to date will be valuable in achieving a speedy and knowledgeable resolution of the petition for reinstatement.

WWP's statement in its exceptions that "Dr. Carleson does state that no additional changes to the Air Contaminant Permit are necessary except to update the BACT evaluation," is somewhat misleading. In the portion of the transcript cited by WWP, Dr. Carleson actually stated in response to questions from Counsel for the Environment that it would be his recommendation that the Air Contaminant Permit, if it were renewed, should meet the more stringent PSD requirements. Nothing in Dr. Carleson's testimony indicates that he believes that the Permit should be renewed immediately.

WWP's Proposal that the Mitigated DNS language be amended to allow for new information as to the greenhouse effect and acid rain should be rejected. The Mitigated DNS already encompasses these areas and leaves the matter open until the time of the decision to construct. The opportunity to comment upon the Mitigated DNS has passed and the argument is not well-taken on procedural grounds.

In sum, WWP's exceptions with regard to the Air Contaminant Permit should be denied and the proposed suspension of the permit should be affirmed.

D. CONCLUSION

The construction authorization for the Creston Generating Station should be extended for an additional five years, especially in view of a rising need for energy and a declining surplus. The transmission line siting issue should be deferred until the time of the decision to construct. The amendments to the SCA regarding transmission siting as set forth in the appendix to this order simply serve to clarify the intent of the original SCA that WWP and BPA negotiate in good faith

and that, in the event negotiations fail, the Council has the duty to scrutinize any transmission proposals before determining whether to approve one.

The Air Contaminant Permit should be suspended until the time of the decision to construct, pending full review of relevant factors, including advances in knowledge and technology with regard to acid rain and the greenhouse effect, and pursuant to then-current standards.

Proposed Order dated September 16, 1988 is attached hereto as Appendix A and is incorporated herein by this reference. The Council affirms and adopts the Proposed Order pursuant to the discussion herein, but restates the Findings of Fact and Conclusions of Law for purposes of clarity.

Having discussed above in detail both the oral and documentary testimony concerning all matters inquired into, and having stated findings and conclusions, the Council now makes the following summary of those facts. Those portions of findings detailed in this order and in the proposed order pertaining to the ultimate findings are incorporated herein by this reference.

FINDINGS OF FACT

1. On January 25, 1988, WWP filed with the Energy Facility Site Evaluation Council an application to amend the SCA for the Creston Generating Station in Lincoln County, Washington.
2. The matter was heard in Lacey, Washington, pursuant to due and proper notice to all parties, on June 22 and June 23, 1988, before the Council, C. Robert Wallis, Vice Chair, presiding.
3. The Creston Generating Station was not constructed within the original five-year frame because actual energy resource surpluses substantially exceeded those which were forecast. Present data demonstrate higher growth rates in electrical consumption than those previously forecast and a declining surplus.
4. Amending the Creston SCA to extend construction authorization will minimize the time required for planning and construction of four 500 mw coal-fired electric generating plants located near Creston, Washington.

5. Transmission corridors are intrusive and costly and raise environmental concerns. Existing corridors are less intrusive, less costly and raise fewer environmental concerns than new corridors.
6. Fossil fuel combustion may affect global warming and acid rain.
7. Changes in standards and advances in knowledge of environmental effects of key pollutants have occurred since the original SCA. These changes and advances have not been systematically monitored.
8. The Council's Mitigated DNS pursuant to SEPA ensures that environmental impacts of construction and operation will have been fully considered before commencement of construction.

CONCLUSIONS OF LAW

Having considered the entire record in this proceeding and having made the foregoing Findings of Fact, the Council hereby makes and enters the following Conclusions of Law:

1. The Council has jurisdiction over the subject matter of Application No. 88-1 and the parties to this proceeding.
2. The Application to amend the SCA is in compliance with the Council's guidelines for such applications contained in Chapter 463-36 WAC.
3. The Council has satisfied the statutory requirements contained in Chapter 80.50 RCW, Chapter 34.04 RCW, and Chapter 463-30 WAC.
4. The SCA between the applicant and the state of Washington should be amended. Attachment II, Part A, should read as follows:

TWWPCo shall commence construction of the first unit within (10) years of the signing of this Agreement and shall commence construction of the fourth unit within twenty (20) years of the signing of this agreement.

5. Existing transmission corridors should be used wherever possible. Provisions regarding transmission line siting should be amended as follows:

Article IV, Part F, Sec. 8:

8. If an acceptable arrangement as provided in Section 7 above cannot be reached between TWWPCo and BPA within six months from the date ~~(the Site Certification is signed)~~ of the decision to construct, TWWPCo may appear before EFSEC and show that TWWPCo negotiated in good faith but was unable to obtain an agreement with BPA as provided in Section 7.

Article IV, Part F, Sec. 9:

9. Upon making such a showing to EFSEC and upon EFSEC's concurrence that an agreement as provided in Section 7 could not be obtained, TWWPCo shall submit for approval a proposal for the use of one of the alternative transmission routes utilizing substantial new rights-of-way identified in the Application for Site Certification or any other route.

6. The effects of global warming and acid rain resulting from fossil fuel combustion should be considered by the Council prior to commencement of construction in addition to any other emissions and atmospheric effects of combustion. The Air Contaminant Permit, Attachment V, should be suspended. It may be reinstated upon petition by WWP at the time of decision to construct. Reinstatement should be subject to the Council's consideration of the advances in knowledge to the time of review regarding the cumulative effect of emissions as they contribute to acid rain and global warming, and subject to a full inquiry into all relevant factors and upon review pursuant to then-current standards.

7. A new BACT analysis should be conducted and should demonstrate environmental control to the Council's satisfaction before the decision to allow reinstatement of the Air Contaminant Permit.

8. Changes in standards and advances in knowledge and environmental effects of key pollutants should be monitored by WWP and the Council and incorporated into the permit conditions at the time of the decision to construct. A new section should be added to Article VII following condition G of the SCA to read as follows:

H.TWWPCo shall monitor changes in those federal and state regulatory standards referenced specifically in this agreement, advances in knowledge of environmental effects of key pollutants allowed to be discharged, and changes in environmental conditions in areas that may be affected by the CGS. TWWPCo shall work closely with EFSEC in establishing parameters for such monitoring. Upon a decision to construct, EFSEC will determine after hearing whether any of the changes are sufficiently great to warrant amendments to specific requirements contained in this agreement.

9. The Council is authorized to and should submit the following recommendation and order to the Governor of the state of Washington. Amendment of the SCA should be contingent upon execution by the Governor and the applicant of the amended SCA for the Creston Generating Station.

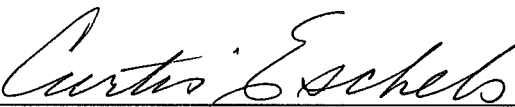
RECOMMENDATION AND ORDER

Having considered the entire record in this proceeding, including the above Findings of Fact and Conclusions of Law, the Council hereby reports to the Governor of the State of Washington that the Application for Amendment to the Site Certification Agreement for the Creston Generating Station, upon the terms and conditions stated herein and as set out in Appendix B, Amendment No. 1, attached hereto and by this reference made a part hereof, is in compliance with the applicable law and regulations. The Council hereby recommends to the Governor that he approve the Application for Amendment to the Site Certification Agreement for the Creston Generating Station, as conditioned herein and that he execute the attached amendment.

IT IS FURTHER ORDERED That the foregoing report and recommendation, together with the foregoing Findings of Fact and Conclusions of Law, shall be, and the same are hereby, entered by the Council and forwarded forthwith to the Governor of the state of Washington for his consideration and action.

DATED at Olympia, Washington, and effective this 8th day of December, 1988.

WASHINGTON STATE ENERGY FACILITY
SITE EVALUATION COUNCIL

By 
Curtis Eschels
Chairman

Attachment: Appendix A, Proposed Order
Appendix B, Amendment No. 1

APPENDIX A

PROPOSED ORDER

SEPTEMBER 16, 1988

BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL

In The Matter of)	
Application No. 88-1)	
	)	FINDINGS OF FACT,
WASHINGTON WATER POWER	)	CONCLUSIONS OF
CRESTON GENERATING STATION	)	LAW AND PROPOSED ORDER
	)	GRANTING, IN PART,
A Washington Corporation	)	REQUEST TO AMEND SITE
.....	)	CERTIFICATION AGREEMENT

This matter came on regularly for hearing on June 22 and June 23, 1988, in Lacey, Washington, before Chairman Curtis Eschels and the Energy Facility Site Evaluation Council of the State of Washington, C. Robert Wallis, Vice Chair, presiding.

The parties appeared and were represented as follows:¹

APPLICANT:	Washington Water Power By Jerry Boyd, Attorney at Law 1400 Washington Trust Financial Center Spokane, Washington 99204
COUNSEL FOR THE ENVIRONMENT:	People of the State of Washington Nancy Sloane, Assistant Attorney General West 1116 Riverside Avenue Spokane, Washington 99201-1194
LINCOLN COUNTY:	Citizens of Lincoln County By Phil Borst, Prosecuting Attorney Box 397 Wilbur, Washington 99185
INTERVENOR:	Northwest Conservation Act Coalition By Marc Sullivan, Executive Director 3429 Fremont Place North, Suite 308 Seattle, Washington 98103

¹ Intervenor status was also granted to Blue Sky Advocates and the Lincoln County Agricultural Coalition (LCAC), although neither party appeared at the hearings. On June 14, 1988, LCAC and WWP entered into an agreement (Exhibit 15) by which LCAC's concerns were satisfied.

Following the hearings, final briefs were submitted by Washington Water Power (WWP), the Northwest Conservation Act Coalition (NCAC), and Counsel for the Environment. WWP also submitted a motion to file a reply to NCAC's final brief, along with its reply. The Council granted the motion and the reply has been made a part of the record and considered in this decision.

BACKGROUND

On February 15, 1983, the state of Washington and the WWP signed a Site Certification Agreement (SCA) authorizing up to four 500 MW coal-fired electric generating plants to be located near Creston, Lincoln County, Washington.

The SCA contained two conditions relevant to this proceeding. Attachment II, Part A, provides that WWP "shall commence construction of the first unit within five years of the signing of this Agreement and shall commence construction of the fourth unit within 15 years of the signing of this Agreement." Attachment V, Part IV.B, provides that the Air Contaminant Permit "shall be valid only if construction on the first unit commences within five years of the date of certification." The five years expired February 15, 1988.

On January 25, 1988, WWP filed an application with the Washington State Energy Facility Site Evaluation Council (Council) for an amendment to the SCA to extend the time limits contained in the above provisions for five additional years.

A Prehearing Conference was held on March 15, 1988, at Davenport, Washington. On May 23, 1988, the Council entered Prehearing Conference Order No. 653 outlining five issues to be addressed by the parties at the hearing. Those issues are:

1. What is the basis for the request by WWP for the proposed amendment?
2. What specific provisions should the Council include in conditioning of the amendment to the SCA upon review of transmission line siting prior to commencement of construction?
3. What specific provisions should the Council include in conditioning of the amendment to the SCA upon renewal of the project's air quality permit?

4. What tracking should be required of the applicant, and what review should be required by the Council prior to commencement of construction, beyond the present SCA conditions as to baseline environmental and socioeconomic conditions, the understanding of those conditions, and the effects of plant construction and operation, and the technology of plant construction and operation?
5. Matters arising under the Washington State Environmental Policy Act (SEPA), as later may be identified by the Council.

The following witnesses testified in support of the application on behalf of the applicant: W. L. Bryan, Vice President, Power Supply for WWP, testified as to the basis for WWP's request to amend the SCA; R. G. Bailey, Vice President, Power Systems, Puget Sound Power & Light Company (PSP&L), testified as to PSP&L's load growth as it relates to the CGS; Robert E. Henriques, Manager, Resources Thermal and Planning, testified as to transmission line siting and socioeconomic impacts; Bob Anderson, Environmental Coordinator for the CGS, Department of Environment, Health and Safety, WWP, testified with regard to the Air Contaminant Permit.

Counsel for the Environment presented two witnesses: Dr. Thomas Carleson, Associate Professor of Chemical Engineering, University of Idaho, testified with regard to the air contaminant permit and the issue of acid rain, and Dr. Gordon Orians, Professor of Zoology, University of Washington, testified as to the effect of certain CGS emissions combined with other sources of those emissions.

Appearing on behalf of the NCAC was Marc Sullivan, Executive Director. Mr. Sullivan testified in opposition to the application and in support of the testimony of Drs. Carleson and Orians.

ISSUE 1

What is the basis for the request by WWP for the proposed amendment?

Parties' Positions

WWP bases its request for a five-year extension on a change in forecasted energy needs and resources. It contends that it could not construct the Creston Generating Station within the five-year time limit because a large energy surplus rendered its construction unnecessary. Current forecasts, however, indicate a slow decline in the amount of surplus energy available. Therefore, the CGS option should be retained by WWP. Time for planning and construction must be minimized so that a fully licensed facility will be ready if and when it is needed. That minimum amount of time is five to six years.

Mr. Bryan testified that WWP has exchange agreements with several California utilities by which WWP sells surplus power to California during certain times of the year and California reciprocates at other times of the year. He could not state that the Creston plant would not be used to generate power for use outside of the Pacific Northwest Region. At one time, the power generated by the Centralia Steam Plant was sold to California and was later brought back to the Region when it was needed. This resulted in a lower cost power resource for utility customers of the Pacific Northwest Region.

According to Mr. Bailey, PSP&L desires to be able to count on the CGS as a possible energy resource. PSP&L's load growth for the 12 months ending in December 1987, was 3.4% over the previous year, and for the 12 months ending in April 1988, it was 4.14% over the previous year. In view of the increased load growth, Mr. Bailey feels it would be a mistake to foreclose the Creston option.

Dr. Orians, testifying as a witness for Counsel for the Environment, maintains that there is no need for the Creston plant and no evidence that it will ever be built.

NCAC contends that, although need for power was determined not to be an issue in this application, WWP's direct testimony did address that issue. NCAC also contends that, although the Northwest Power Planning Council (NWPPC), in its Regional Energy Plan, proposed "site banking" as a means of reducing lead times for energy resources, the legislature did not explicitly provide for such an approach. Site banking is inconsistent with the legislature's determination that there is a need for power, and WWP's request for an extension due to a lack of immediate need is inconsistent with the Council's legislative mandate. NCAC does concede, however, that the legislature did not intend to preclude future energy planning.

Mr. Sullivan also testified for NCAC that retention of the coal option is inconsistent with the stated policies of the applicant in other forums and is not contemplated in the resource plans of PSP&L. Accordingly, NCAC recommends that the Council grant an extension of no more than 18 months to allow WWP time to complete a least-cost planning process and the NWPPC time to evaluate the Creston SCA.

WWP, in its reply to NCAC's closing brief, contends that need for power was never raised as an issue, but that WWP only attempted to explain, as the basis of its request to amend the SCA, the reasons behind its failure to construct the CGS within the five-year time limit. It also contends that the 18-month extension recommended by NCAC would not be feasible, since it would add uncertainty to the process and to the viability of the SCA. Furthermore, WWP would only be required to reapply for another extension in 18 months.

Finally, WWP argues that the legislature actually recognized the importance of selecting sites for energy resources as evidenced by RCW 80.50, which allows for selecting sites for energy facilities such as the CGS, recognizes the importance of protecting the public's welfare and the environment and of providing abundant energy at reasonable cost.

Council's Decision

After thorough review of the record and file in this proceeding, the Council believes that the construction authorization in the SCA should be extended for an additional five years. Although a forecasted need for energy, which proved to be incorrect, was also the basis of WWP's original application, the Council finds credible the estimates of rising need and declining surplus presented of record. As to environmental concerns, the Council will reserve a final say on such issues, as described further in the body of this order.

The Council rejects NCAC's argument that WWP is proposing site banking. The current application is not a new permit application, but rather an application to amend an already existing permit. The applicant originally applied for the permit in good faith, based on forecasted energy needs. That forecast was later altered. Currently, the applicant bases its request to amend the SCA on projected declines in energy surpluses and resulting need for new resources. Hence, the question of whether the Council has the statutory authority to engage in site banking is not reached here.

ISSUE 2

What specific provisions should the Council include in conditioning of amendment to the SCA upon review of transmission line siting prior to commencement of construction?

Parties' Positions

WWP requests that the language in the original SCA, Article IV, Part F, Section 8, page 13, be changed to provide that if an acceptable arrangement as to transmission line siting cannot be reached between WWP and the Bonneville Power Administration (BPA) within six months from the date of a decision to construct,² WWP may appear before the Council and show that it negotiated in good faith and was unable to obtain an agreement with BPA. Upon making such a showing, one of the remaining proposed alternative transmission routes would be approved by the Council.

WWP proposes the change because of the prospective changes in load flows on both BPA and WWP. Furthermore, even though WWP and BPA have already negotiated and failed to reach an agreement, WWP's position is that there is now a new administrator for BPA, and some movement toward changes in BPA's policies has begun.

Dr. Orians testified for the Counsel for the Environment that the transmission line siting issue should be resolved before the SCA is renewed. WWP should use existing lines and easements, since transmission corridors are intrusive and costly and raise environmental problems. The solution must be consistent with the National Environmental Policy Act (NEPA), SEPA and should be the one that is the least environmentally damaging.

Council's Decision

The Council agrees with WWP that the transmission line siting issue should be deferred until the time of decision to construct. The Council accepts WWP's request to alter the language in Article IV, Part F, Section 8, page 13 of the SCA.

²The original SCA states "within six months from the date the Site Certification Agreement is signed."

However, the Council also believes that certain other provisions in the SCA relating to transmission line siting have not been met and are inappropriate for the renewed permit.

For example, Section 9 on the same page, and Section 10, page 14, provide that the Council shall approve one of the alternative transmission routes submitted by WWP. These provisions in effect tie the Council's hands as to approval of other routes, which is contrary to its legislative directive to act in the best interests of the public health and safety. In addition, Section 9 requires WWP to submit to the Council only those alternative transmission routes identified in the original SCA. The Council believes this limitation is inappropriate.

Accordingly, the following changes should be made:

Article IV, Part F, Section 8, page 13, shall read as follows:

If an acceptable arrangement as provided in Section 7 above cannot be reached between TWWPCo and BPA within six months from the date ~~(the Site Certification is signed)~~ of the decision to construct, TWWPCo may appear before EFSEC and show that TWWPCo negotiated in good faith but was unable to obtain an agreement with BPA as provided in Section 7.

Article IV, Part F, Section 9, page 13, shall read as follows:

Upon making such a showing to EFSEC and upon EFSEC's concurrence that an agreement as provided in Section 7 could not be obtained, ~~(one of the remaining proposed alternative transmission routes shall be approved.)~~ TWWPCo shall submit for approval a proposal for the use of one of the alternative transmission routes utilizing substantial new rights-of-way identified in the Application for Site Certification or such other route as may be appropriate.

Article IV, Part F, Section 10, page 14, requiring the Council to approve one of the remaining proposed alternative transmission routes if BPA will not or does not commence construction of its double circuit 500 kV route on or before January 1, 1985, shall be stricken in its entirety.

The Council prefers that existing corridors be used for transmission lines and strongly encourages good faith negotiation between the applicant and BPA. If negotiations are unsuccessful, the Council reserves the right to hold public hearings with regard to the negotiation process as well as WWP's proposed alternative routes.

ISSUE 3

What specific provisions should the Council include in conditioning amendment of the SCA upon renewal of the project's air quality permit?

Parties' Positions

WWP requests renewal of its current Air Contaminant Permit and proposes that the last sentence of the paragraph on page V-2 of Attachment V in the Air Contaminant Permit³ be stricken and the following sentence substituted:

Prior to ordering air pollution control equipment and within 90 days following TWWPCo's decision to construct the CGS, TWWPCo shall submit a BACT analysis to EFSEC. EFSEC shall review the BACT analysis submitted by TWWPCo and shall make a BACT determination for CGS air emissions.

A Best Available Control Technology (BACT) analysis includes a review of compliance with applicable standards and regulations, a review of air pollution control technology, and an analysis of that technology, taking into consideration the impacts on the environment, the energy that is required for the particular technology, and the economics or cost of the technology. WWP contends that this proposal is in keeping with the United States Environmental Protection Agency's (EPA) Prevention of Significant Deterioration (PSD) Permit. The EPA has made a BACT determination on the first unit, if it is built during the 18 month period of the permit. A new BACT analysis would be required for the remaining units. WWP also contends that testimony as to the "greenhouse effect" is speculative and not worthy of consideration.

³This sentence states, "(if) air pollution control equipment has not been designed or ordered within five years of the issuance of this permit, a new determination may be required for BACT."

Mr. Henriques testified that he is continually apprised of air quality developments, and would like to have the standards that are applicable at this time apply throughout the requested five-year extension so that WWP will know the terms and conditions of the license. One exception would be the updated National Electric Safety Code, which would apply to the Creston plant.

Mr. Anderson testified that, after investigation, he found that the terms and conditions of the Air Contaminant Permit were still appropriate. He further testified that the PSD permit provides for a 93% removal of sulfur dioxide. The ambient air quality for the four-unit CGS will therefore be better than established air quality standards. The consumption of the PSD Class II increment with 93% removal of SO_2 would be less than one-third. Of all the coal-fired units constructed in the United States, the CGS, while operating under the EPA PSD Permit as presently issued, would be among the three or four cleanest.

Mr. Anderson also stated that there have been no changes since 1983 in the new source performance standards identified in the Air Contaminant Permit, page V-4, Paragraph II.A.1. The only change made by EPA in WWP's PSD Permit related to an increase in the sulfur dioxide removal rate from 86.5% to 93% and a reduction in the emission rate down to 0.118 lbs. SO_2 /million BTU. No other changes in applicable standards have been made.

Dr. Orians opposes renewal of the Air Contaminant Permit at the present time, since any plan involving the burning of fossil fuels, which release carbon dioxide, sulfur dioxide and nitrogen oxides, must receive the utmost scrutiny, both on a local and on a global basis.

Dr. Thomas Carleson, also a witness for the Counsel for the Environment, noted an increased concern about acid rain in the west. Although currently not a problem in the west, the eastern regions of the country do have a problem in that regard and models used there could be applied in the west. Dr. Carleson recommended that a study be done of emissions from the Creston plant as they combine with other sources of sulfur dioxide, thereby creating an overall picture of the potential for acid rain in the Northwest.

The Counsel for the Environment recommends that if the extension is granted, the Air Contaminant Permit should not be renewed until one year before construction is to begin, following a full review of all environmental issues.

NCAC recommends that the Council defer renewal until it can examine the cumulative effects of all atmospheric emissions on the Northwest as they combine with those emitted by the CGS.

Council's Decision

The Council denies WWP's request that the Air Contaminant Permit be renewed at the present time for five additional years. Instead, the Council believes that the permit should be suspended until review at the time of decision to construct.

WWP contends that no new technology or standards have been developed in the five years since the existing SCA was signed and that, therefore, the permit should be renewed. Although there has not been a significant advance in technology, there have been advances in knowledge and a rapidly increasing concern about the cumulative global effect of emissions as they contribute to acid rain and global warming. The "greenhouse effect" appears to be a real and immediate phenomenon, and increasing knowledge about it should be considered. The potential over the next five years for changes in emissions technology and knowledge is great, and any Air Contaminant Permit should be tested against the most current knowledge and standards. Therefore, the Council believes the Air Contaminant Permit should not be renewed but should be suspended and should be reissued only at the time of the decision to construct, upon a full inquiry into relevant factors, and shall be reviewed pursuant to then-current standards.

The decision to suspend the Air Contaminant Permit is consistent with the policy of the state, pursuant to RCW 80.50.010 to "preserve and protect the quality of the environment... and to pursue beneficial changes in the environment." It is also consistent with its enumerated powers under Chapter 80.50.040 and with the Council's discretionary duty pursuant to WAC 463-36-010 to "take such action as may be necessary to protect the public health, safety and welfare." The Council acknowledges WWP's understandable desire to maintain the complete SCA. Suspension of the permit, rather than revocation, will assure WWP of the general provisions of the permit, which for the most part will remain unchanged. It will also assure the citizens of the state that a complete review of relevant issues with up-to-date scientific knowledge and state-of-the-art technology will be undertaken at the time of the decision to construct.

ISSUE 4

What tracking should be required of the applicant, and what review should be required by the Council prior to commencement of construction, beyond the present SCA conditions as to baseline environmental and socioeconomic conditions, the understanding of those conditions, and the effects of plant construction and operation, and the technology of plant construction and operation?

Parties' Positions

WWP contends that no amendments to the SCA regarding environmental and socioeconomic conditions are needed. No change of circumstance or advances in technology have been testified to by any of the witnesses, and there is no factual basis in the record for any amendments other than those proposed by the applicant.

Council's Decision

The Council believes that the five-year extension of the SCA should be conditioned upon joint tracking, to be conducted by WWP and the Council, in order to keep abreast of the developing changes in relevant standards and scientific advances. Specifically, a new section should be added to Article VII of the SCA to read:

H. TWWPCo shall monitor changes in those federal and state regulatory standards referenced specifically in this agreement, advances in knowledge of environmental effects of key pollutants allowed to be discharged, and changes in environmental conditions in areas that may be affected by the CGS. TWWPCo shall work closely with EFSEC in establishing parameters for such monitoring. Upon a decision to construct, the EFSEC will determine after hearing whether any of the changes are sufficiently great to warrant amendments to specific requirements contained in this agreement.

ISSUE 5

Matters arising under SEPA, as later may be identified by the Council.

Parties' Positions

It is WWP's position that the Mitigated Determination of Nonsignificance (DNS) ensures that environmental impacts of construction and operation of the CGS will have been fully considered by the Council before permission is granted for construction. Upon WWP's decision to construct, the Mitigated DNS requires a review of changes in social and environmental conditions, a review of proposed design changes from the original CGS, and a review to determine the impact to the environment as a result of those changes. This is a sufficient review and if no changes have occurred in plant design, the environment, or socioeconomic conditions, additional assessment would be unnecessary.

Dr. Orians testified that the Mitigated DNS, in which the SEPA process will be reopened at the time of the decision to construct, covers many of the environmental problems, but he is nevertheless concerned that the Council consider not only the local effects, but also the global effects of the plant.

Council's Decision

The Council agrees with WWP that the Mitigated DNS is sufficient to resolve matters arising under SEPA, since it ensures that the environmental impacts of the construction and operation of the CGS will have been fully considered by the Council before construction is permitted.

FINDINGS OF FACT

Having discussed above in detail the evidence and oral and written arguments regarding all matters inquired into, and having stated findings and conclusions, the Council now makes the following summary of those facts. Those portions of the preceding detailed findings pertaining to the ultimate findings are incorporated herein by this reference.

1. On January 25, 1988, WWP filed with the Council an application to amend the SCA for the CGS in Lincoln County, Washington.

2. The matter was heard in Lacey, Washington, pursuant to due and timely notice to all parties, on June 22 and June 23, 1988, before the Council, C. Robert Wallis, Vice Chair, presiding.
3. The Creston plant was not constructed within the original five-year time frame because actual energy resource surpluses substantially exceeded those forecasted. Present data demonstrate higher growth rates in electrical consumption and a declining energy surplus.
4. The Creston SCA should be preserved by WWP to allow minimal time for planning and construction.
5. Transmission corridors are intrusive and costly and raise environmental problems. Existing corridors should be used wherever possible.
6. The effect of global warming and acid rain resulting from fossil fuel combustion should be considered by the Council prior to commencement of construction.
7. A BACT analysis can sufficiently address emissions of carbon dioxide, sulfur dioxide and nitrogen oxides. WWP should be required to do a BACT, which must demonstrate environmental control to the Council's satisfaction, before the decision to allow reinstatement of the Air Contaminant Permit.
8. Monitoring of developing changes in standards and advances in knowledge of environmental effects of key pollutants should be conducted.
9. SEPA's Mitigated DNS ensures that environmental impacts of construction and operation will have been fully considered by the Council before commencement of construction.

CONCLUSIONS OF LAW

Having considered the whole record in this proceeding, and the foregoing Findings of Fact, the Council makes the following Conclusions of Law:

1. The Council has jurisdiction over the subject matter of Application No. 88-1 and the parties to this proceeding.
2. The Application to amend the SCA is in compliance with the Council's guidelines for such applications contained in Chapter 463-36 WAC.
3. The Council has satisfied the statutory requirements contained in Chapter 80.50 RCW, Chapter 34.04 RCW, and Chapter 436-30 WAC.
4. The SCA between the applicant and the state of Washington should be amended. Attachment II, Part A, should read as follows:

TWWPCo shall commence construction of the first unit with ten (10) years of the signing of this Agreement and shall commence construction of the fourth unit within twenty (20) years of the signing of this Agreement.

Provisions regarding transmission line siting should be amended as described in the body of this order. The Air Contaminant Permit, Attachment V, should be suspended and reissued at the time of the decision to construct, subject to the conditions described in the body of this order.

5. Article VII regarding environmental monitoring programs should be amended as described in the body of this order.

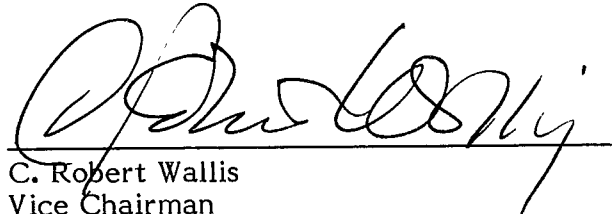
ORDER

WHEREFORE, IT IS HEREBY ORDERED That Application No. 88-1 of the Washington Water Power Company to amend the Site Certification Agreement for the Creston Generating Station in Lincoln County, Washington, shall be, and the same is hereby granted as set forth in the body of this order.

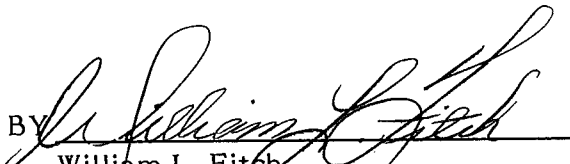
Dated at Olympia, Washington and effective this 16th day of September 1988.

WASHINGTON STATE ENERGY FACILITY
SITE EVALUATION COUNCIL

BY


C. Robert Wallis
Vice Chairman

ATTEST:

BY 
William L. Fitch
Executive Secretary

APPENDIX B

AMENDMENT NO. 1

AMENDMENT NO. 1 TO THE
SITE CERTIFICATION AGREEMENT FOR THE
CRESTON GENERATING STATION
BETWEEN
THE STATE OF WASHINGTON
AND
WASHINGTON WATER POWER COMPANY

This amendment to the Site Certification Agreement (SCA) was made and entered into pursuant to Chapter 80.50 of the Revised Code of Washington by and between the state of Washington, acting by and through the Governor of the state of Washington, and the Washington Water Power Company, a Washington corporation.

This amendment includes an extension of time to the construction authorization of the original SCA; changes in provisions as to transmission line siting; and suspension of the Air Contaminant Permit pending review of current data and knowledge at the time of the decision to construct, subject to certain conditions.

This amendment, when duly executed, becomes a part of the SCA.

The following changes are hereby adopted:

Article IV, Part F, Sec. 8, is amended to read as follows:

8. If an acceptable arrangement as provided in Section 7 above cannot be reached between TWWPCo and BPA within six months from the date of the decision to construct, TWWPCo may appear before EFSEC and show that TWWPCo negotiated in good faith but was unable to obtain an agreement with BPA as provided in Section 7.

Article IV, Part F, Sec. 9, is amended to read as follows:

9. Upon making such a showing to EFSEC and upon EFSEC's concurrence that an agreement as provided in Section 7 could not be obtained, TWWPCo shall submit for approval a proposal for the use of one of the alternative transmission routes utilizing substantial new rights-of-way identified in the Application for Site Certification or any other route.

A new section is added to Article VII to read as follows:

H. TWWPCo shall monitor changes in those federal and state regulatory standards referenced specifically in this agreement, advances in knowledge of environmental effects of key pollutants allowed to be discharged, and changes in environmental conditions in areas that may be affected by the CGS. TWWPCo shall work closely with EFSEC in establishing parameters for such monitoring. Upon a decision to construct, EFSEC will determine after hearing whether any of the changes are sufficiently great to warrant amendments to specific requirements contained in this agreement.

Attachment II, Part A, is amended to read as follows:

TWWPCo shall commence construction of the first unit within ten (10) years of the signing of this Agreement and shall commence construction of the fourth unit within twenty (20) years of the signing of this agreement.

Attachment V, Part IV.B, is amended to read as follows:

The Air Contaminant Permit shall be suspended. It shall be renewed upon TWWPCo's application for reinstatement at the time of the decision to construct. Reinstatement will be based upon a full inquiry

into all relevant factors and upon review pursuant to then-current standards, including advances in knowledge to the time of review regarding the cumulative effect of emissions as they contribute to acid rain and global warming.

FOR THE STATE OF WASHINGTON

Booth Gardner
Governor

FOR THE WASHINGTON WATER POWER
COMPANY

Paul A. Redmond, Chairman
and Chief Executive Officer

BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL

In The Matter of
Application No. 88-1

WASHINGTON WATER POWER
CRESTON GENERATING STATION

A Washington Corporation
.....

CERTIFICATE OF SERVICE

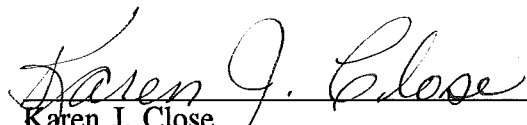
The undersigned certifies that on December 9, 1988 she served the enclosed:

Letter to Governor Booth Gardner from Chairman Curtis Eschels
dated December 8, 1988, transmitting Council recommendation
on the Washington Water Power Company Application No. 88-1
and enclosing Council Order No. 654 dated December 8, 1988;
and

Revised Official Distribution List dated December 8, 1988

by depositing copies thereof in the United States mail, properly stamped and
addressed, as indicate on the attached distribution list dated December 8, 1988.

Dated: December 9, 1988


Karen J. Close
Administrative Assistant

- * Indicates Revision
- ** Indicates Removal from List

OFFICIAL DISTRIBUTION LIST

Washington Water Power
Creston Generating Station
Application No. 88-1

APPLICANT

Mr. Fred A. Shiosaki, Manager
Environmental Affairs
Washington Water Power
P.O. Box 3727
Spokane, WA 99220

Mr. Jerry K. Boyd, Esq.
Attorney for the Applicant
1200 Washington Trust Fin. Ctr.
Spokane, WA 99204

ORIGINAL AND TWO COPIES TO:

Mr. William L. Fitch
Executive Secretary
Energy Facility Site
Evaluation Council
Mail Stop: PY-11
Olympia, WA 98504

COUNCIL

Mr. Curtis Eschels
Chairman
Energy Facility Site
Evaluation Council
Mail Stop: PY-11
Olympia, WA 98504

*Mr. Norval Johanson
Department of Agriculture
4430 John Luhr Road N.E.
Olympia, WA 98506

*Ms. Nancy Parkes Turner
Division of Emergency Management
Department of Community
Development
7036 Zangle Road NE
Olympia, WA 98504

COUNCIL (Cont.)

Mr. Steve Mitchell
Department of Ecology
Mail Stop: PV-11
Olympia, WA 98504

Mr. Ed McGuire
State Energy Office
Mail Stop: FA-11
Olympia, WA 98504

*Mr. Claude Lakewold
Office of Financial Management
Mail Stop: AQ-44
Olympia, WA 98504

Ms. Bette Johnson
Department of Fisheries
Mail Stop: AX-11
Olympia, WA 98504

Ms. Nancy Burnett
Department of Natural Resources
Mail Stop: PY-11
Olympia, WA 98504

Mr. Mike Reed
Parks & Recreation Commission
Mail Stop: KY-11
Olympia, WA 98504

Mr. Bill Miller
Department of Social & Health
Services
Mail Stop: LD-11
Olympia, WA 98504

COUNCIL (cont.)

Mr. Dan Inveen
Department of Trade & Economic
Development
Mail Stop: AX-13
Olympia, WA 98504

Mr. Kris Gupta
Department of Transportation
Mail Stop: GF-11
Olympia, WA 98504

Mr. Jack Howerton
Department of Wildlife
Mail Stop: GJ-11
Olympia, WA 98504

Mr. C. Robert Wallis
Utilities & Transportation
Commission
Mail Stop: FY-11
Olympia, WA 98504

Mr. Andy Rustemeyer
County Commissioner
Lincoln County Courthouse
450 Logan St.
Davenport, WA 99122

COUNSEL FOR THE COUNCIL

Ms. Susan Jensen
Assistant Attorney General
Mail Stop: PB-52
Olympia, WA 98504

COUNSEL FOR THE ENVIRONMENT

Ms. Nancy Sloane
Assistant Attorney General
Office of the Attorney General
West 1116 Riverside Avenue
Spokane, WA 99201-1194

AGENCIES

Mr. Spencer W. Daniels
Assistant Attorney General
Department of Transportation
Mail Stop: PB-52
Olympia, WA 98504

Mr. Phil Borst
Prosecuting Attorney
Lincoln County Courthouse
450 Logan Street
Davenport, WA 99122

*INTERVENORS

Mr. Rodney Reinbold
Mansfield & Reinbold
Attorneys at Law
P.O. Box 751
Okanogan, WA 98840

Mr. Hal Johnson
Lincoln County Agricultural
Coalition
Route 3, Box 35
Davenport, WA 99122-9734

*Mr. Marc Sullivan
Executive Director
Northwest Conservation Act
Coalition
3429 Fremont Place North
Suite 308
Seattle, WA 98103

INTERESTED PARTIES

Ms. Carolyn Ruth Pickett
East 4322 12th Avenue
Spokane, WA 99212